IN THE HIGH COURT OF UTTARAKAND AT NAINITAL.

Writ Petition No. 801(S/S)2007

Seema Verma W/o Sri Ravi Verma,
R/o 61 Awas Vikas Colony, Haldwani,
District Nainital. ---- Petitioner.

Vs.

1. State of Uttarakhand, through Secretary, Basic Education,
2. Director, Vidyalayi Shiksha, Uttarakhand, at Dehradun,
3. District Education Officer, Pithoragarh,
4. Addl. District Education Officer (Basic), Pithoragarh,
5. Smt. Mamta Dwivedi, Assistant Teacher,
   Primary School-Balakot (Bin) Pinthoragarh,
6. Smt. Laxmi Panwar, Head Mistress,
   Primary School, Balakot (Bin), Pithoragarh.

----Respondents.

Sri B.S. Adhikari, learned Counsel for the petitioner and
Sri Paresh Tripathi, learned Standing Counsel for State of Uttarakhand/respondent nos. 1 to 4.
None for respondent nos. 5 & 6.

Hon'ble M.M. Ghildiyal, J.

Heard Sri B.S. Adhikari, learned Counsel for the petitioner and Sri Paresh Tripathi, learned Standing Counsel for State of Uttarakhand/ respondent nos. 1 to 4. None for respondent nos. 5 & 6.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

i. A writ, order or direction in the nature of certiorari by quashing the impugned orders dated 26.05.2007 and 28.05.2007 passed by the Director, Vidyalayi Shiksha and the transfer order dated 12.06.2007 in respect of the petitioner (annexure 4,5 & 6),

ii. To pass any other order or direction which this Hon'ble Court deem fit and proper in the circumstances of the case,

iii. To award cost throughout.

By the impugned order dated 12th June 2007 passed by the Addl. District Education Officer/District Education Officer, (Basic) Pithoragarh, the petitioner, who is working as Assistant Teacher in Primary School, Balakot, District Pithoragarh, has been transferred to Primary School, Indira Nagar, Gangolihat, District Pithoragarh.

Stand of the petitioner is that she is working in Primary School, Balakot since 15th July 2000. The present transfer order has been passed by the respondents on the ground that the petitioner is working in the School over the sanctioned strength prescribed by the Govt. Learned counsel for the petitioner has assailed the impugned order on the ground that one Smt. Mamta Dwivedi is working in the School Balakot since 1998 and Smt. Laxmi Panwar is also working in the School since 18.01.2000. Smt. Laxmi Panwar was transferred vide order dated 28.06.2004 from Balakot to Kholagaon (Berinag). The said order is still in existence, however she has managed not to be relieved from the School and she is still working at Balakot.

There are two posts of Teachers in the School and, incase, one person is working in excess of the sanctioned strength, Smt. Mamta Dwivedi who is working in the School Since 1998 should have been transferred as she has long stay in the School than the petitioner and if it was not possible for any reason, Smt. Laxmi Panwar who has been transferred from Balakot vide order dated 28.04.2004 and the order has yet not been cancelled, she should have been asked to join at new place where she has been transferred. Thus, there was no occasion to transfer the petitioner on the ground that one Teacher in

Primary School, Balakot is working in excess of the sanctioned strength. Prima-facie, I find force in the arguments advanced by the learned counsel for the petitioner. Learned counsel for the petitioner has submitted that the petitioner has yet not been relieved from Balakot.

Learned counsel for the petitioner has submitted that raising all her grievances the petitioner has already moved a representation before the District Education Officer on 04.07.2007.

In these circumstances, I deem it fit and proper to direct the District Education Officer, to take decision on the representation of the petitioner dated 4th July 2007 by passing a speaking order on the points raised by the petitioner in her representation, within a period of four weeks from the date of production of a certified copy of this order. Till the representation is decided by the respondent or till 15th August 2007 whichever is earlier, the petitioner shall not be relieved from the present School.

The petitioner is directed to submit a certified copy of this order before the District Education Officer, Pithoragarh within a week from today.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

July 5, 2007:
NCM: